



# Town of Carlisle

MASSACHUSETTS 01741

Office of

PLANNING BOARD

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## MINUTES

January 10, 2000

Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board (Berry Corner Lane, Map 7, Parcel 29) [Request of Town Counsel] (Executive Session)

Public Hearing: Request to remove a 16 foot portion of a stone wall on a Scenic Road, Curve Street, in accordance with Article XII of the Carlisle Zoning Bylaws and M.G.L. Ch. 40, Sec. 15A, Map 28, Lot 8 (Request of John Willett, Altair Associates)

Discussion of procedures for adoption of Rules and Regulations for administering special permits for Personal Wireless Service Facilities

ANR Plan: 42 & 64 Palmer Way, Map 8, Lots 41 & 42, Robert Luoma & Sarah Stokes and Jeffrey DiNardo & Kristine Bergenheim, applicants

ANR Plan: 187 & 193 Partridge Lane, Map 21, Lots 37 & 37A, Jay Acquaviva, applicant

ANR Plan: 662 West Street, Map 6, Lot 63, Christopher Fleming, applicant

Review of Decision: Special Permit for Common Driveway to serve Lots 2 & 3, 646-698 Concord Street, Map 7, Lots 43A and 43-2 (Judith Pettit and John Dowcett, applicants) [Approved 12/13/99]

Request for extension of time to complete Tall Pines Definitive Subdivision Plan from December 15, 1999 to March 15, 2000 (Request of William Costello)

Endorsement of plans: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, map 6 Lot 63 (Christopher Fleming, applicant) [Special Permits approved 11/8/99 and 12/13/99]

Continued Public Hearing: Amendment to Common Driveway Special Permit, Swanson Lane (Kimball Road), Map 29, Parcels 19, 19A and 6-19, David and Kristy Erickson, applicants

ANR Plan: 138 East Street, Map 22, Lots 62, 62B, 63C, 63D & 71, Theodore Treibick and Deborah MacDonald, applicants [Motion not to endorse plan approved 10/25/99]

Chair Tice called the meeting to order at 7:15 p.m. Members Abend, Epstein, Hara, and Lane were present. Planning Administrator George Mansfield was also present. *Mosquito* reporter David Ives arrived at 7:50 p.m. after the executive session. Holzman arrived at 9:45 p.m.

### Discussion of strategy with regard to pending litigation, Valchuis et al. v. Planning Board (Berry Corner Lane, Map 7, Parcel 29) [Request of Town Counsel] (Executive Session)

The Board met in executive session from 7:15 p.m. to 7:50 p.m. to discuss the above named litigation.

The Board then came out of executive session and reviewed the minutes of December 13, 1999. Abend made one correction and added a clarification. He then moved to accept the minutes as amended. Tice seconded and the minutes were approved 5-0.

Upcoming meetings were scheduled for 1/24, 2/14, 2/28, 3/13 and 3/27. Meetings in February and March will begin at 7:15 p.m.

**Public Hearing: Request to remove a 16 foot portion of a stone wall on a Scenic Road, Curve Street, in accordance with Article XII of the Carlisle Zoning Bylaws and M.G.L. Ch. 40, Sec. 15A, Map 28, Lot 8 (Request of John Willett, Altair Associates)**

John Willett showed a plan and explained that he would like to remove approximately 16 feet of stone wall along Curve Street in order to access a two-acre lot. Along with the plans, Willett presented photographs showing several views of the wall and the surveyor's stakes at the proposed cut. He also noted that the wall is in general disrepair and that there is an existing driveway directly across the street. Abend was concerned about a tree located next to the driveway, but Willett noted that this tree is actually located 12-15 feet back from Curve Street. Willett added that the road is relatively straight in this area. Abend still thought that this tree might cause sight distance problems given that there are also several smaller trees and a telephone pole in the area. The PA and several Board members who had visited the site felt that sight distances were adequate and that the tree is located a good distance away from the road. Epstein then moved to approve the removal of approximately 16 feet of stone wall on the scenic road, Curve Street, as shown on the sewage disposal plan prepared by Stamski and McNary dated 9/23/99. Hara seconded the motion and it carried 4-1-0 with Abend opposed.

**Discussion of procedures for adoption of Rules and Regulations for administering special permits for Personal Wireless Service Facilities**

Paul Gill, Acting Chair of the Wireless Application Advisory Committee (WAAC) was present along with the following members of WAAC: Fontaine Richardson, David Keast and Bob Hambleton. Rick Blum of the WAAC could not be present this evening.

Gill explained that the committee agrees that the first draft of the rules and regulations is a good start, but that they would like to see greater consistency between the bylaw and the rules and regulations. They felt that the rules and regulations should include 1) siting specifications, 2) specifications for radio frequency engineer qualifications and 3) a note stating that if discrepancies exist between the bylaw and the regulations, the bylaw should take precedence.

WAAC members also had questions over the definitions of "filing fee" and "project review fee." The Board explained that a filing fee is non-refundable, while a project review fee is held in escrow to cover costs incurred by a third party review of the plans. With the latter, unexpended funds are returned to the applicant at the completion of the project.

Gill asked if there are funds available to the WAAC for possible expenses such as conducting surveys or attending appropriate seminars. Mansfield noted that the WAAC is appointed by the Board of Selectmen and that the two boards should meet to determine which board will assume costs for WAAC. He suggested that this be decided relatively quickly in order to prepare a budget for FinCom.

Gill suggested that a working group consisting of two PB members and two WAAC members be formed to work on the wireless rules and regulations. It was suggested that all comments and suggestions be forwarded to Dan Holzman this week so that he may compile them and then meet with WAAC. Gill agreed to contact Holzman to set up a meeting date. WAAC also asked for a copy of Sherborn's wireless regulations and a list of PB e-mail addresses. The Planning Administration Staff will also send out RFQs for wireless consultants and will survey area communities to determine project review fees.

Both the PB and WAAC agreed that they must discuss how they will work together regarding wireless applications. The PA will contact the Selectmen to determine their specific siting goals for wireless applications. Discussion will be continued on January 24<sup>th</sup> at 8:00 p.m.

**ANR Plan: 42 & 64 Palmer Way, Map 8, Lots 41 & 42, Robert Luoma & Sarah Stokes and Jeffrey DiNardo & Kristine Bergenheim, applicants**

Kristine Bergenheim was present for this discussion. Mansfield explained that this ANR involved a simple land swap and does not affect the lot's frontage. Epstein moved to endorse the subdivision plan of land in Carlisle, MA prepared for Jeffrey DiNardo and Kristine Bergenheim dated 9/21/99. Abend seconded the motion and it carried 5-0.

**ANR Plan: 187 & 193 Partridge Lane, Map 21, Lots 37 & 37A, Jay Acquaviva, applicant**

Mansfield explained that this ANR also involves a land swap in order to allow proper set back for a proposed addition to the dwelling. Epstein moved to endorse the plan of land in Carlisle, MA presented by Jay Acquaviva dated 12/30/99 prepared by Stamski and McNary. Lane seconded the motion and it carried 5-0.

**ANR Plan: 662 West Street, Map 6, Lot 63, Christopher Fleming, applicant**

The applicant's engineer, Joe March of Stamski and McNary was present and explained that this ANR was necessary in order to convey the portion of the parcel which lies in Acton. This plan must be filed with both North Middlesex and South Middlesex registries of deeds because the parcel straddles the border. Abend moved to endorse the plan of land in Acton and Carlisle, MA prepared for Christopher Fleming, by Stamski and McNary, dated 11/30/99. Lane seconded the motion. Epstein noticed that the statement "Planning Board endorsement is not a determination as to conformance with zoning requirements" was missing from the plans. March said this was simply an oversight. Observing that this plan has already been endorsed by the Acton Planning Board, Epstein then moved to amend the motion by adding a waiver of Art. II, Sec. 4.b.1.m, which requires this statement on the plans. Abend and Lane accepted the amendment to the motion and it carried 5-0.

**Review of Decision: Special Permit for Common Driveway to serve Lots 2 & 3, 646-698 Concord Street, Map 7, Lots 43A and 43-2 (Judith Pettit and John Dowcett, applicants) [Approved 12/13/99]**

Hara recused herself from this discussion. Epstein noted that the decision does not state that this driveway should serve no more than two dwellings. Mansfield explained that this was discussed, but not mentioned in the motion. Epstein suggested that the Board should be specific to include such items in its motions, so that future Boards may understand the intent of the decision if questions should arise. Finding only minor typographical errors, the Board approved the draft decision by a consensus vote.

**Request for extension of time to complete Tall Pines Definitive Subdivision Plan from December 15, 1999 to March 15, 2000 (Request of William Costello)**

William Costello was present and stated that he would like an extension of the completion date to March 15, 2000. He explained that the only outstanding item is the installation of cast iron gas traps in the drains. Costello chose March 15<sup>th</sup> to allow the project to come before Spring Town Meeting for possible acceptance. The Board suggested granting an extension to April 15<sup>th</sup> to allow for possible delays. Costello agreed. Abend moved to extend approval of the definitive subdivision plan entitled "Tall Pines, Carlisle, MA, for Costello," dated 2/23/90, prepared by Stamski and McNary, sheets 1-32, as amended by agreement during the public hearing, until 4/15/2000. Epstein seconded the motion and it carried 5-0.

**Discussion of Annual Town Report (Due 2/1/2000)**

Tice agreed to work with Mansfield to prepare a draft by the next meeting. Tice asked if data could be gathered to show how many preliminary applications have been directed toward less intrusive development. Abend suggested that the report could show the number of projects, the number of acres developed and the number of units developed. The Board asked the Planning Staff to gather information to show development trends in recent years.

### **Buttrick Woods**

Mansfield explained that he noticed utility poles being placed at either end of the common driveway in the Buttrick Woods conservation cluster although the plan states that all utilities shall be underground. Joe March, the applicant's engineer, was present and explained that the developer and the utility company felt that it would be better to place poles on that side of Concord Road to allow the wires to cross over the road. Otherwise a cut would be required through this recently paved road. The PA noted that these poles are not located within the right-of-way of Concord Road, but rather, they are within the common driveway easement. The poles are also not concealed by mature trees as required in the rules and regulations. The Board asked that the applicant, Bruce Wheeler, come before the Board to request an amendment to the plan. March agreed to speak with the applicant and explain the Board's request.

*(Holzman arrived.)*

### **Endorsement of plans: Special Permits for Conservation Cluster and Common Driveway to serve 5 lots at High Woods, 662 West Street, map 6 Lot 63 (Christopher Fleming, applicant) [Special Permits approved 11/8/99 and 12/13/99]**

The applicant's engineer, Joe March of Stamski and McNary, was present. Kristine Bergenheim of the Bicycle and Pedestrian Safety Committee and Ken Harte of Estabrook Road were present. Fleming arrived after the plans were endorsed.

Mansfield explained that the appeal period has expired and the Board may endorse the plans. He noted that the paper copies are not very clear. March agreed to forward better copies to the Board.

Kristine Bergenheim of the Bicycle and Pedestrian Safety Committee noted that when the Board originally approved this conservation cluster on 10/25/99, it had included a request for \$5000 to the Carlisle Safety Trust. When the vote was reconsidered at the 11/8/99 meeting, this request was omitted. Tice suggested that the PA draft a letter to Fleming reminding him of this request, and suggesting a voluntary donation of \$5000 to the Carlisle Safety Trust. The Board agreed by a consensus vote, noting that this request would be non-binding. Ken Harte argued that such requests might deter applicants from pursuing the special permit process.

### **Continued Public Hearing: Amendment to Common Driveway Special Permit, Swanson Lane (Kimball Road), Map 29, Parcels 19, 11A and 6-19, David and Kristy Erickson, applicants**

David Erickson was present with his engineer, Joe March of Stamski and McNary. Abutters Joanne and Dennis Rainville and Pat and John Kovach of Swanson Lane were also present.

This hearing was scheduled to open at 9:00 p.m. Erickson requested that it be continued to later in the evening to allow for the arrival of Holzman. Abend moved to continue the hearing to 9:20 p.m. Lane seconded the motion and it carried 5-0.

At 9:20 p.m., Abend moved to continue the hearing to 9:45 p.m. Tice seconded and it carried 5-0.

At 10:00 p.m., with six Board members now present, Tice began by summarizing a 12/20/99 memo from the PB to Paul DeRensis, Town Counsel, in which the Board asked specific questions regarding threshold access.

Epstein asked the applicant to show the frontages for Lots 1 and 2. It was noted that the frontages coincided with the common driveway easement. Epstein explained that Town Counsel has advised the PB that frontages cannot overlap existing easements, and therefore the Board should not endorse the ANR plan. Based on Town Counsel's letter, dated 1/7/2000, Epstein felt he could not approve the plan. Erickson asked if he could obtain a copy of this letter. Epstein said that the letter is marked "attorney/client privileged," but he agreed to ask Town Counsel if this

document could be released. Alternatively, he suggested that Erickson's lawyer might wish to discuss the matter directly with Town Counsel.

Abend moved to continue the hearing to 1/24/2000 at 9:00 p.m. Lane seconded the motion and it carried 6-0.

**ANR Plan: 138 East Street, Map 22, Lots 62, 62B, 63C, 63D & 71, Theodore Treibick and Deborah MacDonald, applicants [Motion not to endorse plan approved 10/25/99]**

The applicant, Ted Treibick was present along with his engineer, Russ Wilson. Abutters Fred Lewis and Michael Kayat were also present.

The PA noted that according to a 1/6/2000 letter from Judith Nitsch Engineering, the plan conforms to standard practices of survey. Epstein then moved to endorse the plan of land in Carlisle, MA prepared for Theodore Treibick and Deborah MacDonald dated 9/16/99, last revised 12/28/99. Hara seconded the motion.

Fred Lewis asked to check dimensions for agreement with his property deed, but the Board noted that the dimensions for his lot were not required on the plan, and were not given.

Michael Kayat was concerned that his septic may be too close to the lot line. The Board noted that this lot line did not change, and such issues should be addressed to the Board of Health.

Tice then called for a vote on the above motion and it carried 6-0. Mansfield agreed to forward the bill for Nitsch's engineering review to Treibick for payment.

Tice explained that the Board had never before required so many revisions to an ANR plan, and asked the engineer to present more accurate plans in the future.

At 10:35 Abend moved and Tice seconded a motion to adjourn. The motion carried 6-0.

Respectfully submitted,



Anja M. Stam  
Planning Secretary